

Calendar No. 140

82D CONGRESS
1st Session

SENATE

REPORT
No. 151

GERTRUD LOMNITZ

MARCH 5 (legislative day, JANUARY 29), 1951.—Ordered to be printed

Mr. McCARRAN, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. 824]

The Committee on the Judiciary, to which was referred the bill (S. 824) for the relief of Gertrud Lomnitz, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill, as amended, do pass.

AMENDMENT

Strike all after the enacting clause and insert in lieu thereof the following:

That for the purposes of the immigration and naturalization laws, Gertrud Lomnitz shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee and head tax. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper quota-control officer to deduct one number from the appropriate quota for the first year that such quota is available.

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to grant the status of permanent residence in the United States to a 55-year-old native of Poland, who was temporarily admitted into this country on July 1, 1949, for the purpose of visiting her son, who was then in the United States Army. The bill provides for an appropriate quota deduction and for the payment of the required visa fee and head tax.

STATEMENT OF FACTS

A letter dated November 15, 1950, addressed to the chairman of the Senate Committee on the Judiciary from the Deputy Attorney General with reference to S. 3841, which was a bill introduced in the Eighty-first Congress for the relief of the same alien, reads as follows:

NOVEMBER 15, 1950.

HON. PAT McCARRAN,
*Chairman, Committee on the Judiciary,
United States Senate, Washington, D. C.*

MY DEAR SENATOR: This is in response to your request for the views of the Department of Justice relative to the bill (S. 3841) for the relief of Gertrud Lomnitz, an alien.

The bill would provide that Gertrud Lomnitz shall be considered to have been lawfully admitted into the United States for permanent residence as of April 7, 1949, the date of her entry into this country, upon payment of the required head tax and visa fee. It would also direct the Secretary of State to instruct the quota-control officer to deduct one number from the nonpreference category of the appropriate immigration quota for the first year such quota is available.

The files of the Immigration and Naturalization Service of this Department disclose that the alien was born in Thorn, Poland, on September 27, 1895, and alleges that she is stateless. She last entered the United States at the port of New York, on July 1, 1949, under section 3 (2) of the Immigration Act of 1924 for 90 days for the purpose of visiting her son who was then in the United States Army. She was granted extensions of her temporary stay until April 30, 1950, but an application for a further extension was denied and she was advised to depart from the United States.

The files further reveal that the alien's son, with whom she resides in New York City, is a veteran of World War II, a legal resident of the United States, and a declarant for United States citizenship. Mrs. Lomnitz stated that her marriage to Fritz Lomnitz in Berlin, Germany, was terminated by divorce in 1927. While in Germany it appears that she was employed as a social worker. According to the alien, she escaped from the Nazis in 1939 and proceeded to England where she remained until her departure for the United States.

Since the quota of Poland to which the alien is chargeable is oversubscribed and an immigration visa is not readily obtainable, she cannot under the general immigration laws be permitted to remain in the United States indefinitely.

Whether this bill should be enacted presents a question of legislative policy concerning which the Department of Justice prefers to make no recommendation.

Yours sincerely,

PEYTON FORD,
Deputy Attorney General.

Senator Herbert H. Lehman, the sponsor of the bill, has submitted additional information to the committee as follows:

JOSHUA S. KOENIGSBURG
ATTORNEY AND COUNSELOR AT LAW

NEW YORK 4, N. Y., June 14, 1950.

HON. HERBERT H. LEHMAN,
Senate Office Building, Washington, D. C.

DEAR SENATOR LEHMAN: Supplementing my telephone conversation with Miss Flexner, I respectfully write you regarding Mrs. Gertrud Lomnitz, and I trust you will see your way clear to introduce a private bill in her behalf.

Mrs. Lomnitz, nee Friedlander, was born in Thorn, Germany, on September 27, 1895, of German parents. The place where she was born was ceded to Poland after the First World War and she would be chargeable to the Polish quota for immigration purposes. Practically all her life she resided in Berlin where her son, Peter, was born on May 27, 1923. Mrs. Lomnitz divorced her husband in Germany in 1926, and never remarried. In 1939, she and her son fled to England. Peter came to the United States for permanent residence on October 6, 1947, and joined the United States Army November 26, 1948, and was honorably discharged on November 7, 1949. Under the law he would not be eligible for citizenship until October 1952.

Mrs. Lomnitz resided in England with her father and was in charge of a department in a dress factory until July 1, 1949, at which time she arrived at New York on the steamship *Washington* in possession of a temporary visa issued to her at London on April 7, 1949, under the provisions of section 3 (2) of the Immigration Act of 1924. She has had several extensions, the last one expiring on April 30, 1950, at which time she was given until June 30, 1950, within which to depart from the United States.

On April 27 last her father died in London and because of that she was obliged to give up her apartment in London and she would like to make per permanent home in the United States with her son.

Peter Lomnitz is employed in a technical capacity, by the Kaybe Manufacturing Co. at 770 Lexington Avenue, Brooklyn, N. Y., and earns \$72 a week. He is single and supports his mother. He is also in some Reserve Corps of the Army and periodically reports for duty.

In answer to the five questions your Miss Flexner propounded to me over the telephone, I herewith answer the following:

Question No. 1

Mrs. Gertrud Lomnitz entered the United States as a temporary visitor on July 1, 1949, at New York as a passenger on the steamship *Washington*.

Question No. 2

At present she is unemployed.

Question No. 3

She is dependent upon her son, Peter Lomnitz, for her maintenance and support.

Question No. 4

She was never engaged in any activity, political or otherwise, injurious to the American public interest; and

Question No. 5

She was never convicted of any offense under any Federal or State law.

I wish to reaffirm my statement to Miss Flexner over the telephone that my representation of Mrs. Lomnitz is without charge. I have not been promised nor do I expect to make a charge or receive any remuneration for my services that I may have rendered or will render in her behalf. I feel that this is a worthy case for legislative action, since there is no administrative relief in sight for Mrs. Lomnitz before her son Peter becomes a citizen. He holds first papers, and, as stated above, he will not be eligible for citizenship until the latter part of 1952, at which time his mother will be entitled to a preference under the Polish quota. At the moment, she is not entitled to any preference or priority, and since she is chargeable to the Polish quota she may not qualify thereunder for many years.

Mrs. Lomnitz is stateless and is traveling on a document issued to her by the British authorities with a notation that "the holder of this document is the concern of the International Refugee Organization." Nevertheless, she may not be considered as an eligible displaced person under the Displaced Persons Act, as she has resided in England since 1939.

Should you wish to interview Mrs. Lomnitz and her son, I will be glad to send them to your office.

Assuring you of my appreciation for your courtesy in this matter, I am,

Yours very truly,

KOENIGSBERG.

The bill has been amended to conform with the policy of the committee in granting permanent residence in the United States to an alien as of the date of the adjustment rather than as of the date of last entry into the United States.

The committee, after consideration of all the facts in the case, is of the opinion that the bill (S. 824), as amended, should be enacted.

